

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KTS/460

<u>Applicant</u>	Art Dragon Enterprises Limited represented by Llewelyn-Davies Hong Kong Ltd
<u>Site</u>	Lots 344B S.2 RP and 344B S.3 RP (Part) in D.D.94 and Adjoining Government Land, No. 106 Hang Tau Road, Kwu Tung South, New Territories
<u>Site Area</u>	1,178 m ² (about) (including about 212 m ² of Government Land (about 18%))
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Kwu Tung South Outline Zoning Plan No. S/NE-KTS/16
<u>Zoning</u>	“Residential (Group D)” (“R(D)”) [‘Flat’ and ‘House’ (except ‘New Territories Exempted House’ (NTEH)) uses restricted to a maximum plot ratio of 0.4 and a maximum building height of 3 storeys (9m)]
<u>Application</u>	Proposed Houses

1. The Proposal

- 1.1 The applicant seeks planning permission to use the Application Site (the Site) for house development. The Site falls within an area zoned “R(D)” on the Approved Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/16. According to the Notes of the OZP for the “R(D)” zone, ‘House (other than Redevelopment; Addition, Alteration and/or Modification to existing house)’ requires planning permission from the Town Planning Board (the Board). There are two vacant structures of 1 to 2 storeys on the Site. The Site is not the subject of any previous planning application.
- 1.2 According to the applicant’s submission, the application is for development of 2 houses on the Site. The Site is accessible by vehicles via Hang Tau Road (**Plan A-1** and **Drawing A-1**). The floor plans and section plans of the houses are at **Drawings A-2 to A-5**.
- 1.3 The major development parameters of the proposed development are as follows:

Site Area	1,178 m ² (about)
Plot Ratio	0.4
Gross Floor Area	471.2 m ² (about)
Site Coverage	34.6%
Height of Structures	2 storeys / 9 m
Number of Blocks	2
Car Parking Spaces ¹	4

1.4 Technical assessments are submitted by the applicant. The Traffic Impact Assessment (TIA) demonstrates that the proposed development will not induce significant traffic impact on the surrounding road network. The Traffic Noise Impact Assessment (TNIA) shows that with the installation of acoustic windows as mitigation measure, there is no adverse road traffic noise impact on the proposed development. The Air Quality Impact Assessment (AQIA) shows that with sufficient buffer distance from Hang Tau Road, no adverse air quality impact on future residents is envisaged. Drainage Impact Assessment (DIA) and Sewerage Impact Assessment (SIA) show that adverse impacts on existing drainage and sewerage systems are not anticipated.

1.5 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with letter of 25.10.2018 received on 1.11.2018 (Appendix I)
- (b) Supplementary Planning Statement (Appendix Ia)
- (c) Letter of 1.11.2018 (Appendix Ib)
- (d) Further Information of 6.12.2018 (Appendix Ic)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Supplementary Planning Statement at **Appendix Ia**. They are summarised as follows:

- (a) The proposed development is in line with the planning intention of “R(D)” zone to improve and upgrade the existing temporary structures through redevelopment of existing temporary structures into low-rise/ low-density residential developments, and is in compliance with the requirements of the “R(D)” zoning.
- (b) The Site is occupied by two derelict vacant structures and there are temporary residential dwellings and vacant derelict structures nearby. The proposed development can also act as a catalyst for phasing out incompatible uses and facilitate upgrading of the adjoining neighbourhood.

¹ According to applicant’s submission, the proposed carports are not accountable to plot ratio calculation, but are accountable to site coverage calculation.

- (c) The proposed houses are compatible with the low-rise village houses of 2 to 3 storeys to its immediate south and southwest. The “CDA” zone to its immediately west is planned with a maximum plot ratio of 0.4 and a maximum building height of 3 storeys. Thus the proposed development is considered compatible with the existing and planned surrounding context.
- (d) The applicant is the sole owner of Lot 344B S.2 RP with consent obtained from the registered owner of Lot 344B S.3 RP for the proposed development. Timely implementation of the proposed houses is justified.
- (e) The development proposal is sustainable in traffic, environment, drainage and sewerage aspects. There are no insurmountable problems found for the implementation of the proposed houses.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is one of the two “current land owners” of the private land within the Site. The applicant has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consent from the other current land owner on 14.9.2018. For the portion of Government Land, the “Owner’s Consent/Notification” Requirements is not applicable. Detailed information would be deposited at the meeting for Members’ inspection.

4. Previous Application

There is no previous application involving the Site.

5. Similar Application

There is no similar application for house development in the “R(D)” zone.

6. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3 and site photos on Plans A-4a to A-4c)

6.1 The Site is:

- (a) fenced off and occupied by two vacant structures; and
- (b) is accessible via Hang Tau Road.

6.2 The surrounding areas have the following characteristics:

- (a) to the east are Beas River Country Club and a pond;
- (b) to the north are some domestic structures, the sewerage treatment plant of

Beas River Country Club and Drainage Services Department Hang Tau Sewage Pumping Station;

- (c) to the west are open storage of construction materials and some domestic structures; and
- (d) to the south is a single domestic structure and to the further south is Hang Tau “Village Type Development” (“V”) zone.

7. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

8. Comments from Relevant Government Departments

- 8.1 The following Government departments have been consulted and their views are summarised as follows:

Land Administration

- 8.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):
- (a) the Site comprises of Lots 344B s.2 RP and 344B s.3 RP (Part), both in D.D. 94 and the adjoining Government land;
 - (b) according to G.N. No. S 169 in 1926, the parent lot, Lot 344B in D.D. 94, was sold on 21.7.1926 as an agricultural land. According to Land Registry’s record, there was a building licence No. 1/46 dated 18.6.1946 relating to Lot No. 344B in D.D. 94 which was subsequently divided into Lot 344B ss.1, 344B ss.2 and 344B (R.P.) in 1957;
 - (c) for Lot 344B s.2 in D.D. 94, there was a building licence (No. 880/58) with 675sf building area. Portion of Lot 344B s.2 in D.D. 94 was reverted to the Hong Kong Government vide Notice of Resumption G.N. No. 2575 M/N N545917 dated 16.4.2003;
 - (d) as revealed from the application form, the applicant is just one of the “current land owners” though he claimed that consent from the owner of Lot 344B s.3 RP in D.D. 94 had been obtained. The applicant is advised to note that any land exchange application to be submitted to effect the s.16 application, if approved, should be submitted by all owners of

the concerned lots and the titles have to be unified prior to surrender;

- (e) as revealed from planning statement, the area under application has encroached the adjoining government land with fence/boundary wall, DLO/N reserves the right to take appropriate land control action;
- (f) as revealed from planning statement, apart from the building under building licence (No. 880/58), there is another structure in Lot 344B S.2 RP in D.D. 94. DLO/N reserves the right to take appropriate lease enforcement action against the structure; and
- (g) if the Board approves the present application and lot owner applies to Lands Department for a land exchange, such application will be considered by the Lands Department acting in the capacity as landlord at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions as considered appropriate including but not limited to the revision of site boundary, the payment of premium and administrative fee. There is no guarantee that any government land involved will be granted.

Traffic

8.1.2 Comments of the Commissioner for Transport (C for T):

based on the further information submitted by the applicant dated 6.12.2018 (**Appendix Ic**) advising the compliance with the sight line requirements at the run-in/out according to Transport Planning and Design Manual (TPDM), he has no further comment on the application from traffic engineering viewpoint.

Environment

8.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) he has no objection to the application subject to the imposition of approval condition of Noise Impact Assessment (NIA); and
- (b) he has no comment on the SIA, AQIA and TNIA. For the TNIA, he has no objection from noise perspective provided that the applicant will be required to submit NIA report and provision of noise mitigation measures to achieve 100% compliance with relevant noise standards to the satisfaction of the DEP or of the Board. His detailed comments on the TNIA are at **Appendix III**.

Landscape

8.1.4 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

in view that there is existing tree at the southwestern corner of the Site as observed on the aerial photo of 2017 and the Site is located next to Hang Tau Road, should the application be approved, a condition requiring the submission and implementation of landscape proposal should be included in the planning permission.

Drainage

8.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he has no objection in-principle to the application from the public drainage point of view;
- (b) should the application be approved, the following conditions should be included in the planning permission:
 - (i) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Board to ensure that the developments will not cause adverse drainage impact to the adjacent area; and
 - (ii) the submission and implementation of a sewerage connection proposal to the satisfaction of the Director of Drainage Services or of the Board;
- (c) the advisory comments are at **Appendix III**.

Building Matters

8.1.6 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) if the existing structures are erected on leased land without approval of BD (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application;
- (b) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the coordinator

for the proposed building works in accordance with the BO;

- (c) for UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO; and
- (d) detailed consideration will be made at the building plan submission stage.

Nature Conservation

8.1.7 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) noting that the Site is located within "R(D)" and has been paved and occupied by existing domestic structures, he has no objection on the application from nature conservation point of view; and
- (b) there is a pond located to the east of the Site. Should the application be approved, the applicant shall be reminded to avoid causing pollution to the pond.

Fire Safety

8.1.8 Comments of the Director of Fire Services (D of FS):

- (a) he has no in-principle objection to the application subject to fire service installations and water supplies for fire fighting being provided to the satisfaction of his Department;
- (b) Emergency Vehicular Access (EVA) arrangement shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 administered by Buildings Department; and
- (c) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

Water Supply

8.1.9 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) he has no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable

government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to his department's standards.

District Officer's Comments

8.1.10 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he consulted the locals from 27.11.2018 to 30.11.2018. His office has not received any comments from all consultees including the Chairman of Sheung Shui District Rural Committee, the incumbent North District Council member of subject Constituency, and the Indigenous Inhabitant Representatives (IIRs) and Resident Representative (RR) of Hang Tau.

8.2 The following Government departments have no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD);
- (c) Commissioner of Police (C of P); and
- (d) Director of Electrical and Mechanical Services (DEMS).

9. Public Comments

On 9.11.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 30.11.2018, three public comments (**Appendices IIa to IIc**) from general public are received. One supports the application, one raises concern on traffic, drainage and *fungshui* impacts and one objects to the application on the ground that excessive amount of land was devoted to the proposed development.

10. Planning Considerations and Assessments

10.1 The application is for development of two proposed houses at the Site zoned "R(D)" on the OZP. There are two vacant structures on the Site. According to the information, provided by the applicant and DLO/N, LandsD, there is one building licence with building area of 675 sf (about 62.7 m²) at Lot 344B S.2. The planning intention of the "R(D)" zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and also for low-rise, low-density residential developments subject to planning permission from the Board. The proposed development, which involves redevelopment of the existing structures on site for house development, is in

line with the planning intention of the “R(D)” zone. The proposed development with a proposed plot ratio of 0.4 and building height of 2 storeys (9 m) conforms to the development restrictions (a maximum plot ratio of 0.4 and a maximum building height of 3 storeys (9m)) of the “R(D)” zone.

- 10.2 The Site is located in a rural environment with Beas River Country Club to the east and mainly village houses in the vicinity. Thus, the proposed 2-storey houses are compatible with the surrounding environment.
- 10.3 The concerned Government departments have no objection to/ adverse comment on the application. Adverse drainage impact from the proposed development is not anticipated. CE/MN, DSD has no objection to the application. For landscape impact, significant landscape impact is not anticipated and CTP/UD&L, PlanD has no adverse comment on the application. Relevant approval conditions as suggested by concerned departments are in paragraph 11.2 to address their technical concerns.
- 10.4 Of the 3 public comments received, one raised concerns mainly on the grounds of traffic and drainage impacts and one on use of excessive land. In this regard, relevant Government departments’ comments and planning assessments as stated in paragraphs 10.1 and 10.3 above are relevant.

11. Planning Department’s Views

- 11.1 Based on the assessment made in paragraph 10 and having taken into account the public comments mentioned in paragraph 9, the Planning Department has no objection to the application.
- 11.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 21.12.2022, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the submission and implementation of landscape proposal to the satisfaction of the Director of Planning or of the Town Planning Board;
- (b) the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;
- (c) the submission and implementation of a sewerage connection proposal to the satisfaction of the Director of Drainage Services or of the Town Planning Board;

- (d) the submission and implementation of fire service installations and water supplies for fire-fighting to the satisfaction of Director of Fire Services or of the Town Planning Board; and
- (e) the submission of a Noise Impact Assessment and implementation of mitigation measures identified therein to the satisfaction of the Director of Environmental Protection or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are attached at **Appendix III**.

11.3 There is no strong reason to recommend rejection of the application.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 12.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid.
- 12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

13. Attachments

Appendix I	Application Form with letter of 25.10.2018 received on 1.11.2018
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Letter of 1.11.2018
Appendix Ic	Further Information (FI) of 6.12.2018
Appendix IIa to IIc	Public comments
Appendix III	Advisory Clauses
Drawing A-1	Block Plan
Drawing A-2	Typical Ground Floor Plan
Drawing A-3	Typical First Floor Plan
Drawing A-4	Section Plan – Section A
Drawing A-5	Section Plan – Section B
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos